follows that the rule is the same in the case of crimes. An individual is liable for the tortious acts of his agent within the general scope of his employment, though intent be an essential element of the tort.[11] But to charge him with the agent's crimes he must be shown to have authorized the act and shared in the intent.[12] Accordingly, it is held in some jurisdictions that corporations are liable only for crimes not involving *mens rea*.[13] The contrary view, however, is undoubtedly the prevailing one to-day;[14] and it is certainly justifiable on grounds of policy if not also on those of logic.

It is very generally assumed that even if the foregoing objections are overcome, still there are certain crimes so far outside the scope of corporate powers that corporations cannot be convicted of them.[15] It is difficult to see any reason for such a distinction, or any satisfactory manner of defining it; and it is interesting to note that although corporations have been held liable for a criminal contempt of court,[16] conspiracy,[17] and various statutory crimes of intent,[18] no decision has been found in which the defendant was freed squarely upon the ground that the crime is completely without the scope of corporate powers.[19] The recent case of *People* v. *Tyson & Co.* (N. Y. City Mag. Ct. 1914) N. Y. L. J. Jan. 13, 1914, in which a corporation was held for trial on charge of grand larceny, seems correct upon principle, and in line with the weight of modern authority.

EQUITABLE PROTECTION OF POLITICAL RIGHTS.—From the language of the cases and the text-writers nothing appears to be more definitely settled than that equity has no jurisdiction over political matters; and that, despite inadequacy of remedy at law or the threat of irreparable

[11]Burdick, Torts, (2nd ed.) 153.

[12]1 Bishop, New Criminal Law (8th ed.) §§ 640-643.

[13]Androscoggin Water Power Co. *v.* Bethel Steam Mill Co. (1874) 64 Me. 441; see Delaware Div. Co. *v.* Commonwealth (1869) 60 Pa. 367, appeal dismissed (1890) 136 U. S. 634; Commonwealth *v.* Props. of New Bedford Bridge, *supra;* Commonwealth *v.* Pulaski Co. Agr. Assn., *supra.*

[14]See cases cited in notes 16, 17 and 18.

[15]Bishop, whose discussion of this question seems to be the basis of many of the modern decisions, takes this view. 1 Bishop, New Criminal Law (8th ed.) §§ 417, 422, 423. See also New York Central & H. R. R. *v.* United States (1909) 212 U. S. 481.

[16]United States *v.* Memphis & Little Rock R. R. (C. C. 1881) 6 Fed. 237; Telegram Newspaper Co. *v.* Commonwealth (1899) 172 Mass. 294; Franklin Union *v.* People (1906) 220 Ill. 355, 370; City of New York *v.* S. I. Ferry Co. (1876) 64 N. Y. 622.

[17]State *v.* Eastern Coal Co. (1908) 29 R. I. 254, 265.

[18](Knowingly mailing unmailable matter) United States *v.* New York Herald Co. (C. C. 1907) 159 Fed. 296; (Eight hour labor law) United States *v.* John Kelso Co. (D. C. 1898) 86 Fed. 304; (Wilful mischief by tenant) State *v.* Rowland Lumber Co. (1910) 153 N. C. 610; (Sabbath-breaking) State *v.* B. & O. R. R. (1879) 15 W. Va. 362.

[19]The cases of People *v.* Rochester Ry., *supra* and Commonwealth *v.* Illinois Central R. R. (1913) 152 Ky. 320, holding that a corporation cannot be guilty of homicide, are based upon a literal interpretation of the statutory and common law definitions of homicide. A similar holding in Commonwealth *v.* Punxsutawney St. Ry. (1900) 24 Pa. Co. Ct. Rep. 25, was reached on the mere ground of lack of direct precedent.

mischief, it is powerless to frame a decree save for the protection of rights of property.[1]

The fundamental conception of equity as a system working *in personam* to prevent the defendant from taking an unconscionable advantage of his position[2] contains no intimation that the resulting injury must be to property. On the contrary, it would seem to justify the conclusion that whenever a well-established right of sufficient importance is invaded, and the decree is practicably enforcible it presents a case for equitable relief regardless of its subject matter. Furthermore, in an age when rights of the person and of the franchise are often considered more important than those of property, it is doubtful whether the historical limitation on the beneficial powers of equity can long persist. And even in the absence of statute, there is an unmistakable tendency to justify the issuing of injunctions to protect personal rights.[3] The step has been taken with great caution: in general, the personal right is remotely connected with the use and enjoyment of property, yet the value of the property may be so slight as to negative any practical contention that the injunction is issued for its protection.[4] Or it may be a type of property or quasi-property so obviously conceived for the purpose as to make it apparent that the substantial reason for the court's intervention is to sustain personal rights.[5] In one class of cases where aid is sought by the State in enforcing the civil statutes, and no injury to property has been alleged, the courts have honestly admitted the extension of equity jurisdiction, and justified it as a necessary exercise of power by the sovereign for the protection of its citizens.[6]

Once the fetish that equity jurisdiction is limited to the protection of property has been abandoned, there remains no reason for the denial of an injunction in a proper case even in political controversies; for it cannot be doubted that many judicial questions arise in the latter sphere for which the legal remedy is entirely inadequate.[7] Hence, despite the authorities which deny that such a power can exist independently of statute, modern cases are not lacking in which the jurisdiction of equity over political rights is recognized and enforced;[8] but the greatest difficulty is encountered in determining what is a proper case for its exercise.

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[1] *In re* Sawyer (1888) 124 U. S. 200; U. S. Voting Mach. Co. *v.* Hobson (1906) 132 Ia. 38, 10 Ann. Cas. 972, 976, and note.

[2] Ames, Lectures on Legal History, 233.

[3] See Bomeisler *v.* Forster (1897) 154 N. Y. 229: *Ex parte* Warfield (1899) 40 Tex. Cr. 413; Note to case of Chappell *v.* Stewart (Md. 1896) 37 L. R. A. 783; 7 Columbia Law Rev. 533.

[4] Woolsey *v.* Judd (N. Y. 1855) 4 Duer 379.

[5] Pierce *v.* Proprietors of Swan Point Cemetery (1872) 10 R. I. 227.

[6] People *v.* Tool (1905) 35 Colo. 225; 7 Columbia Law Rev. 357. And the injured party may properly file a bill against public officers to enjoin violations of his constitutional right of personal liberty. See Tuchman *v.* Welch (C. C. 1890) 42 Fed. 548.

[7] The fact that the remedies of *quo warranto, certiorari* and mandamus are available at law for the protection of political rights seems to answer the objection that the exercise of a similar power by equity to supplement and complete these remedies is an invasion of the legislative sphere of government.

[8] Neal *v.* Young (Ky. 1903) 75 S. W. 1082; Brown *v.* Cole (N. Y. 1907) 54 Misc. 278; State *ex rel* Cook *v.* Houser (1904) 122 Wis. 534, 556 *et seq.*

Here discretion must be the determining factor, but a few conditions have been suggested as necessary prerequisites to intervention. First, in order that the court may be sure of its ground, the plaintiff's claim should be based upon a definite legal right and not merely on a privilege.[9] This excludes questions arising within the party organizations, which it would be entirely impracticable for the courts to attempt to regulate.[10] It does not exclude similar questions where statutes have been enacted controlling the political parties and putting the primary elections on substantially the same basis as general elections, but only extends in such cases to rights that are positively defined by law.[11] Second, there must be no political tribunal for the correction of the injury, or if there is one, the situation must be such as to make an appeal to it unavailing.[12] Third, the remedies at law must be inadequate.[13] Fourth, irreparable injury must threaten the plaintiff's political rights.[14] And, fifth, there must still be a chance for the court by prompt action to save his claims from destruction. In a controversy between two candidates over the party nomination for governor of Arkansas, the plaintiff charged that the state Democratic Committee, constituted by statute for the trial of such contests, had fraudulently found in favor of his competitor, and that the appeal to the state convention, provided by law, would be too late. Equitable relief was denied because no property rights were involved, but the Chief Justice concurred in the result solely on the ground that when the question reached the Supreme Court, the plaintiff's oppotunity had already passed with the holding of the general election. *Walls* v. *Brundidge* (Ark. 1913) 160 S. W. 230. If the motives of the political tribunal are unquestioned its decisions will generally be accepted by the courts as conclusive,[15] but where the element of fraud is added equity should readily lend its aid.[16] Here, a matter of the greatest consequence not only to the plaintiff, but to all the people of the State, was at stake, and in the emergency the judicial machinery failed. While the fault was due to the unjustifiable delay of the lower court, the opinion of the majority in reiterating the outgrown limitation of equity jurisdiction gives no promise for better results in the future.

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[9]Armatage *v.* Fisher (N. Y. 1893) 74 Hun 167.

[10]Matter of Fairchild (1897) 151 N. Y. 359, 366; see 14 Harvard Law Rev. 388.

[11]Neal *v.* Young, *supra.* The same rule is applied by courts of law. Walling *v.* Lansdon (1908) 15 Idaho 282: People *ex rel* Coffey *v.* Democratic Comm. (1900) 164 N. Y. 335.

[12]Shibley *v.* Fort Smith & V. B. District (1910) 96 Ark. 410, 424; Cox v. Moores (1898) 55 Neb. 34.

[13]Even where the legal remedy is adequate equity has protected the rights of a *de facto* officer pending the suit at law. Ekern *v.* McGovern (Wis. 1913) 142 N. W. 595.

[14]Stalhut *v.* Bauer (1897) 51 Neb. 64.

[15]Moody *v.* Trimble (1900) 109 Ky. 139. Here equity follows the law. See Boggess *v.* Buxton (1910) 67 W. Va. 679; Miller *v.* Clark (1900) 62 Kan. 278; *In re* Pollard (1893) 25 N. Y. Supp. 385.

[16]Patterson *v.* People *ex rel* Parr (Colo. 1913) 130 Pac. 618; see 13 Columbia Law Rev. 526; 6 Michigan Law Rev. 67; *cf.* Allen *v.* Burrow (1904) 69 Kan. 812, 2 Ann. Cas. 539, 543 and note.